15281

SENATE..... .....No. 1.

MESSAGE

OF

HIS EXCELLENCY

LEVI LINCOLN,

TRANSMITTED TO THE

TWO BRANCHES OF THE LEGISLATURE,

JANUARY 9, 1832.

Boston:
DUTTON AND WENTWORTH, PRINTERS TO THE STATE,
Nos. 1 and 4 Exchange Street.
.....
1832.

Digitized by the Internet Archive
in 2012 with funding from
The Institute of Museum and Library Services through an Indiana State Library LSTA Grant

http://www.archive.org/details/messageofhisex00linc

MESSAGE.

Gentlemen of the Senate, and
of the House of Representatives :

The suffrages of my Fellow Citizens having again called me to the Executive duties of the Government, it no less becomes the present occasion for addressing their immediate Representatives, than it is demanded by a sentiment of respectful and deep-felt gratitude, that I should thus publickly express a sense of the honor which the recent manifestation of their continued favor and confidence has conferred upon me. The obligations which it imposes, are indeed of anxious and fearful responsibility, not to be satisfied with the language of acknowledgement merely, but requiring the exercise of the best powers of the understanding, the aids of observation and experience, freedom from personal and party considerations, a diligent investigation of the interests of the Commonwealth, patient labor, and a faithful devotion of time and thought to the service of the State. Looking for support and assistance to my official advisers, and confidently relying upon harmony and co-operation in all Branches of the Government, I enter upon the Office

assigned me, and whatever an honest purpose, exclusively regardful of the dictates of duty, can contribute to success and acceptance in its administration, is renewedly pledged, in humble dependence upon the blessing of Heaven, to the discharge of the trust.

The objects of a Representative Government are happily expressed in that Article of the Bill of Rights, which enjoins the frequent assembling of the Legislature, "for the redress of grievances, for correcting, strengthening, and confirming the laws, and for making new laws, as the common good may require." In a review of the present condition of the Commonwealth, it will not fail to be recognized as a subject for the truest congratulation, that so few of the first and highest purposes of legislation remain to be accomplished. For a period of almost half a Century from the adoption of our State Constitution, we were directed by the personal Counsels of those great and good men, who, having assisted in achieving the Independence of the nation, secured the enjoyment of the blessings of Civil Liberty in this Commonwealth, by the establishment of a Republican form of Government, the enactment of just and equal Laws, and in laying the foundation of Institutions for instruction and learning among the people. And now that these Fathers and Founders of the Republic have passed, or are fast passing away, itdevolves upon their Descendants to cherish the principles and practise the virtues of their Ancestors, and thus, in their own day, preserve and improve the rich inheritance of freedom and happiness, which has been transmitted to them, in trust, for posterity.

Various subjects, which demand the attention of the Legislature, will give to the present session unusual in-

terest and importance. Besides the ordinary business of revising and modifying the Laws, or enacting new ones, to conform to the multiplied and ever-changing concerns of an enterprising and prosperous community, the delicate and difficult task of settling the decennial valuation of the rateable property of the Commonwealth, (a work already in the progress of preparation) must, at this time, be completed; and the obligation is consequent upon it, of districting the State, and, upon this basis of valuation, apportioning the representation in the first Branch of the Legislature, in accordance with the provisions of the Constitution. In subserviency to the necessary and immediate action of Congress, under the Constitution of the United States, in fixing the apportionment of Representatives in that Body upon the returns of the last Census, it will doubtless become a duty to district the Commonwealth, for the choice of such number of Representatives as may fall to the proportion of Massachusetts. The early recurrence of the period for a new Election of President and Vice President, brings with it the occasion, also, for prescribing the mode in which the sentiments of the people may be expressed upon this question of exciting and absorbing moment. In all these measures, there is surely enough to engage the anxious thoughts of the reflecting and faithful Representative. They involve the highest interests, the most important rights, the dearest privileges of every Constituent, for by the determination of them, the contributions to the support of Government, and the measure of influence which each individual Citizen may have in the administration of it, will be directly affected.

In the passage of a Law relating to the Election of

Representatives to Congress, I would respectfully recommend, that the time for the Returns of Votes should be much more restricted than at present. The period of forty days, allowed by the last Statute, is longer than convenience requires for their transmission from the most remote places in the Commonwealth, and the delay which is thus occasioned in their official examination, in cases where no choice has been effected, may so far postpone renewed ballotings, as to deprive the State of a portion of her Representation in the Councils of the Nation. To this prejudice she is now, indeed, unfortunately subjected, in an important crisis of her interests, from a failure, upon repeated trials, to elect members in two of the Districts, and should a vacancy providentially happen during a Session of Congress, its continuance for a long time, under the provisions of the present law, would be unavoidable, however desirable it might be, or ready the people were, immediately to supply it. The Executive Precept for an Election must necessarily conform to the Statute authority under which it is issued, and experience has abundantly shewn, that all the Returns from a District will rarely be received in anticipation of the legal requirement. I deem it even worthy of your inquiry and consideration, whether, in special reference to the vacancies which now exist, and the situation of the Districts to which I have referred, an amendment of the law at this time, in such manner as to enjoin the Returns in the shortest reasonable opportunity after casting the votes, is not expedient. At no period in our public affairs has it seemed to me to be more interesting, that the State should be fully represented, and the weight of its influence felt in the measures of the General Government.

There is yet another subject of very general expecta-

tion, which will press with weight upon the responsibility of this Legislature; that of an Amendment of the State Constitution in relation to the popular Branch of the Government. While this measure, in some form which shall effect a reduction of the number of Representatives, has been long called for, with scarce a divided sentiment upon its necessity, among the people, it has hitherto failed, through differences of opinion within these Halls, as to the shape in which it should be presented for their adoption. The unusually full delegation, at the present time, may be received as no equivocal evidence of the solicitude with which your deliberations upon the plan proposed by your immediate predecessors, will be regarded. Without presuming to anticipate the result, I cannot forbear to express an earnest and confiding hope, that in arriving at it, the great principles of political Justice, and the equal rights of all the Citizens, may be kept prominently in view, so that neither the over excited jealousy of local interests, nor the exclusiveness of personal considerations, shall be permitted to interfere with that form and extent of modification, which the public good requires. Manifold as are the existing inconveniences, it were far better, that they should be longer suffered, than that, by partial and unsatisfactory alterations in the frame of Government, inducements should be held out to constant change. The true basis of a Republic is in the equal rights of the people, and the more nearly a system of representation shall be made to express this equality, the more perfect it will be. All other arrangements are purely arbitrary, or the result of compromise in the formation of the civil compact. To secure to one Citizen an exercise of the privilege of suffrage in the election of public Agents, more frequently, or in a higher

degree, than it is allowed to another, under a similarity of political circumstances, and with no other reference in the discrimination, than to the mere accident of residence, may comport with the terms of such compromise, but would practically violate the essential relation of Representative to Constituent, which can only exist, where trust is reposed by the one, and corresponding obligation and responsibleness are created on the part of the other. How far any of the provisions of the pending Amendment are liable to objections resulting from such considerations, or how effectual the reduction which it proposes, would be, to remove the inconveniences of a cumbrous representation, is peculiarly your province to determine. The Amendment having passed one Legislature, in accordance with the mode prescribed in the Constitution, must now be taken or rejected, as it is. Coming as you do, upon a recent election, from every part of the Commonwealth, you bring with you that knowledge of public opinion which must be decisive upon the question. Should this be adverse to its acceptance, it may still reasonably be expected, that the investigation and discussions which the subject must receive, will give rise to a proposition less imperfect, and better conforming to the sentiments which may be represented here. Relief, universally demanded, cannot long be denied, and the appeal should never be made in vain to a spirit of wisdom and conciliation to provide it. The present Constitution of the House is felt to be an oppressive and enormous evil, burthening the public revenue, delaying the public business, impairing the certainty and safety of legislation, and fruitful of dissatisfaction and complaint with the administration of the Government.

A Report on the subject of Insolvency and Imprison-

ment for Debt, with a Bill for the relief of Insolvent Debtors, and the more equal distribution of their effects, prepared by an able and learned Commission instituted under the authority of the Government, were laid before the Legislature of the last political year. These documents were published and distributed among the Members, and probably came within the observation of most of those whom I now have the honor to address. Owing to the short continuance of the session, no legislative action was then had upon them. The original papers, doubtless, remain on the files of the General Court, and I beg to be indulged in calling them, and the interesting subjects which they respect, to your present attention. It must surely be cause for deep regret, that, while the claims of a class of unfortunate and distressed Fellow Citizens to our strongest sympathies, have so long and justly been recognized, no measure of adequate relief has been applied to their condition. The laws of an earlier and harsher age, in unmitigated severity, still press upon them, and Creditors, yet harder than the laws, hold them in fear of perpetual bondage. The misfortunes of Men are ofttimes as far beyond the ken of human foresight, and without their control, as are the convulsions of nature. The elements, disease, false trust in friends, public calamities, overwhelm with sudden ruin, and leave from the wreck of substance no prospect, but hopeless inability and the law's poor mercy for unperformed engagements. Thousands there are lost to their families and to the community, through peril of the infliction of punishment for poverty, who, could they have been discharged in the adverse times which befel them, starting with new enterprise in these days of success and general

prosperity, would have been restored to the enjoyment of competency and the usefulness of valuable Members of Society. It is this liability to imprisonment for debt, which drags the sinking man to the bottom, and holds him, with a mill-stone's weight, from rising. Refinement of Sentiment, Humanity, and Public Policy alike demand, that this stern feature of an ancient code should be relaxed. It reproaches the Jurisprudence of modern times, casting the dark shadows of a barbarous age, when the living flesh and blood were sold to servitude for the dues of money, over the noonday influences of Christian philanthropy.

Various matters, which are the usual and proper subjects of annual communication, will be presented to you, with the necessary minuteness of detail, in Reports from appropriate Departments, and Agents of the Government. Among these, it will not fail to be distinguished as cause for peculiar gratification, that the condition of the State Prison has at length reached a highly satisfactory point of improvement. Honor to the wisdom, the moral confidence and courage, the determined and persevering purpose of successive Legislatures in a few years past, that, by liberal appropriations from the Treasury to the means of experiment in penitentiary regulation and discipline, a mere *Prison House*, for the physical restraint of the body, has been converted into a *School* of salutary instruction and reform to the minds of the most vicious and abandoned of our fellow men. The eye of christian hope may now rest with assurance upon the influence of this Institution, in the accomplishment of an object of the truest benevolence. Although but little more than two years have elapsed since the introduction of a new system of employment and control into the Prison, the

beneficial effects are already distinctly visible, both within and without the walls. The demeanor of the convicts has been softened and corrected, and from the admonitions afforded here, and the greater terror inspired abroad, commitments have sensibly diminished. Within the last year the number of prisoners was reduced from 290, at its commencement, to 256 at its close. The Directors express the opinion "that crimes of an atrocious character are less frequent than was once the case; and that the majority of the Convicts appear to be inferior in intelligence and information to the average of any class of our Citizens." A most instructive result is also produced by the curious and critical investigations of the Chaplain, into the characters and lives of these miserable men. Of 256 convicts, whom his inquiries respected, he ascertained that 156 were led by intemperance to the commission of the offences for which they suffer; that 182 of the first mentioned number had lived in the habitual neglect and violation of the Sabbath; 82 were permitted to grow up from infancy, without any regular employment; 68 had been truants to their parents while in their minority; 61 could not write, and many were wholly unable to read. The intimate connexion and association of ignorance with vice, of dissoluteness with outrages upon the laws, are here distinctly traced, and furnish an impressive lesson upon the importance of knowledge and temperance to individual welfare and social order, which should give a thrilling excitement to the advancement of these objects, in the heart of every virtuous and patriotic citizen and magistrate.

The business operations of the Prison, during the year past, have been conducted with success. The balance of the annual account which, for several of the preceding

years, had been found to be large against the Institution, in the exhibit of this year, is diminished to the inconsiderable sum of $477 41; and against this, even, it should be understood, there are numerous considerations of credit, particularly mentioned in the Reports, which, if they had been taken into the account, would materially and most favorably have affected the result. In 1828, the excess of expenditure was more than 12,000 dollars, in 1829, it was between 7 and 8,000, and, in 1830, it approached to 7,000. There can be but little doubt, that, henceforth, the earnings of the Prison will meet the ordinary expenses of its government and support, and leave something, annually, for repairs and such additional accommodations as utility or convenience may require. The Reports, which will be submitted to you, contain suggestions of the need of alterations in the Hospital, and of a building for the residence of the Warden. The latter seems to be necessary to a compliance, by this officer, with the requisitions of duty, under the existing law; and I recommend that authority should be given by the Legislature for the proposed improvements.

The progress towards the establishment of another Institution of public benevolence, in a Hospital for the Insane, under the authority of a Resolve of the Legislature of the 10th March, 1830, has been as great as the peculiar character of the last season, and the magnitude of the work, would permit. The *exterior* structure of a spacious Edifice for the accommodation of a Superintendant and of one hundred and twenty Lunatics, has been completed, and the finishing of the *interior* is in such forwardness as will secure the preparation of the building for occupation, in the course of the next summer. From the economy and good management which have

been observed by the Commissioners, in the contracts for the work, it is confidently believed, that the expense of erecting the Hospital, in the manner required by the Resolve, will not exceed the appropriation. The plan of the Commissioners, however, embraces a small additional range of strong Lodges, somewhat detached from the principal Building, for the restraint of those persons who may be, either, so furiously mad, or so mischievously disposed, as to endanger their safe keeping, or to disturb the tranquillity of the quiet and convalescent patients; and for this most indispensable arrangement to the good order and successful management of the Institution, as well as for enclosing the grounds, necessary furniture for the Building, and the support of the Establishment; provision remains to be made by the Government. Estimates for these objects have been requested of the Commissioners, for the purpose of being laid before you. It will also devolve upon the Legislature, at the present session, to authorize the removal of such subjects of relief, as are now confined in the Jails and Houses of Correction, in the different Counties, whenever the Hospital shall be prepared for their reception; and likewise to determine, in what manner and on what terms, others of the same class of unhappy Beings, differently situated, may be admitted to the care and support of this public charity. It was made, by the Resolve, the duty of the Commissioners, to prepare and report to the Executive, a system of discipline and government for the Institution; but as this system requires the sanction of the Legislature for its adoption, the Report is transmitted by me, for your consideration and disposal.

In connexion with this subject, I have to communicate an Extract from the Will of the late Nathaniel Maccarty,

Esquire, of Worcester, which has been duly proved, bequeathing, among other public benefactions, the sum of Five Hundred Dollars, if the Government will accept thereof, *in trust*, that it shall be expended in ornamenting, by the construction of walks, and in planting with trees and shrubbery, the public Grounds, purchased and appropriated for the use and accommodation of the Hospital, "to the end," (in the language of the Testator,) "that the said grounds may be made, not only an object of tasteful regard to the Citizens of the town and to Visitors, but of refreshment and gratifying interest to the convalescent Patients and Inmates of the Establishment." An expression of your acceptance of this Legacy, and your authority to the application of the money, according to the intention of the Testator, are requisite to give effect to the bequest.

The interesting design of obtaining an accurate Map of the State from actual surveys and admeasurements upon Trigonometrical principles, is in a course of diligent prosecution. That you may be fully apprized of the character of the work, and of the progress which has been made towards its accomplishment, during the past season, copies, both of the general and monthly Reports, which have been required from the Surveyor, are herewith submitted. The incipient steps of the process are made exceedingly minute and difficult, by the necessity of perfect mathematical certainty in these, to a correct ultimate result; but the plan, when thus completed, will be of inestimable value, and of abiding use. Full confidence is entertained in the ability and fidelity of the Engineer engaged in the active service of making the Surveys;—yet to hasten the attainment of the object, it may be found advisable to direct the employment of additional assistants, another year.

By a recent communication from the learned Professor, whose attention has been directed to the Geological Survey of the Commonwealth, I am apprized, that the purpose of his Commission is nearly executed. The necessary examinations of Country have been mostly made, and the *First Part* of an elaborate Scientific Report, comprising "The Economical Geology of the State, or an account of our Rocks, Soils and Minerals, that may be applied to useful purposes, and thus become sources of pecuniary profit," accompanied with a Map, delineating by distinctive numbers and colourings, the various minerals and rock formations which prevail, has been transmitted to me. The plan of the Professor proposes, that the Report should consist of *Four* Parts; the *second* part to exhibit the Topographical Geology, or an account of the most interesting features of our scenery, —the *third* part, the Scientific Geology, or an account of our Rocks in their relation to Science,—and the *fourth* part to contain Catalogues of the native Mineralogical, Botanical, and Zoological Productions of the State. Under the authority of a Resolve of the 2d of February last, and with the advice of the Executive Council, arrangements have been made to procure the immediate publication of the *first* part of the Report, with lithographic colored impressions of the Map, and the delivery of 600 copies for the use of the Government. These, I trust, will be obtained in season to meet your notice and order for distribution, during the session. The best justification will thus be furnished for engaging in these investigations, and the highest evidence offered of the practical value of those discoveries and noble contributions to Science, which this immense mass of curious and interesting information will present.

The direction of the Legislature, in a Resolve of the 15th of March last, to cause a concise Manual upon the growth and treatment of the Mulberry Tree, and the culture of Silk, to be compiled and published, and to be distributed in suitable numbers to the City of Boston, and the Towns in the Commonwealth, has been complied with, by procuring the compilation of a plain, practical treatise, containing useful information and instruction, the result of observation and experience, on these subjects, and by obtaining its publication, with illustrative plates, and the delivery of 1800 Copies to the Government, which have been put in a course of distribution, agreeably to the Resolve. This whole Commission has been executed somewhat within the appropriation.

Commissioners were duly appointed, pursuant to a Resolve of the 16th of June last, to revise the Laws respecting the form of Bank Bills and the use of Stereotype Plates, and to devise measures of more effectual protection against Forgery and Counterfeiting. The high character of the Gentlemen constituting the Commission, and their practical acquaintance with, and experience in the matters committed to them, bespeak your confidence in their opinions, and in the measures of precaution and security which they may recommend. There is reason to believe, that the currency of the Country has recently been much vitiated by the successful circulation of false Bills, while the danger to the Community, from this cause, is supposed to be greatly increased by the existing law, in requiring uniform Plates for impressions of Bank paper. There is an alarming need of protection, also, against the unauthorized use of these Plates, which, at some future day, circumstances might render at least

quite possible. The subject is one of very great and general concern, and seems to deserve immediate attention.

Other Commissions, in relation to repairs upon the State House, and the construction of a Fire-proof Edifice for the security and preservation of the public Records, with the general direction of which the Executive was charged, have been fulfilled, in the entire completion of these improvements. The personal skill and constant attention of the Superintendant who was appointed to the immediate oversight of the work, greatly contributed to its expeditious, thorough, and economical performance. No provision having been made for his compensation in the Resolve authorizing the appointment, I deem it an act of justice to submit to you a Report, made and accepted in the Executive Council, as evidence of his claims to a pecuniary consideration for valuable services. The accounts of Expenditures upon these objects, as settled with the Executive, show, that the Repairs upon the State House cost little more than one half the estimated amount, and that the expense of the Fire-proof Building was brought within the sum of the appropriation for that purpose.

The transfer of the Records and public papers to the apartments prepared for their future safe keeping, awaits the order of the Legislature, and in view to this, I beg leave to suggest to your consideration, the expediency of causing every Document worthy of preservation, to be entered in a descriptive list, previous to removal, and of directing their arrangement in such chronological or other order, in their new position, as may give immediate and easy reference to them, whenever there is need.

It is with much satisfaction that I am enabled to offer

renewed assurances of the value and productiveness of the Commonwealth's interest in the public Lands in the State of Maine. Under the prudent and judicious management of the Land Agent, the sales, from the first day of February last to the sixth day of December last, the date of his Report to me, amounted to $35,499 60. In the mean time, the timber has been well protected from depredation, while the demand for it, and for the purchase of the lands, is constantly increasing. With the sales of the past year the authority to the Agent to dispose of lands South of the Monument Line, was exhausted. The opportunity which he represents, for selling, advantageously, several more Townships in the same neighborhood, recommends an extension of his authority for that purpose.

Having been advised, in the month of October last, by a communication from the Governor of Maine, of the appointment of the Land Agent of that State, as a Commissioner, to meet a Commissioner on the part of this Commonwealth, for the purpose of agreeing upon a system for the sale, disposition, and management of the public Lands owned by the two Governments, the Land Agent here, as best acquainted with the subject, and most conversant with the character and situation of the property and the interest of the Commonwealth in its management, was immediately deputed to that trust. Owing to unforseen circumstances, the meeting of the Commissioners has not yet taken place. Their Report, when made, is required to be transmitted by them directly to the Legislature.

Unhappily, the controversy with a Foreign Government, respecting the North Eastern Boundary of the United States, which so deeply affects the States partic-

ularly interested in these Lands, remains unsettled. It may be, that this subject has hitherto been regarded with too little concern by us. None may be of more important consequences. It involves, with the rights of property, considerations of high political character and moment. If there is an attribute of State Sovereignty which is unqualified and undeniable, it is in the right of Jurisdiction to the utmost limits of State Territory; and if a single obligation under the Constitution, rests upon the Confederacy, it is to guarantee the integrity of this territory to the quiet and undisturbed enjoyment of the States. The reference of the boundary question to the King of the Netherlands has been wholly ineffectual to its just decision. He has palpably departed from the plain terms of the submission, and substituted a proposition to a compromise of difficulties, for an award upon the matter directly in issue between the parties. As an Arbiter, his office strictly was, *to apply a descriptive line of boundary to corresponding appearances on the face of nature.* Rejecting these, he has attempted to establish a new course of division, denoted by Monuments totally dissimilar, and through a tract of Country distant, and widely different. By no rule of Municipal or International law, can such a decision be made of binding obligation. There is no occasion to inquire into the extraordinary influences which may be supposed to have produced it. A preference, by any portion of the Subjects of his Majesty's Province, to a popular Government, would have been as valid a reason for transferring Nova Scotia to the United States, as the convenience of the British Government, of a Road through the State of Maine to Canada, for assigning the Lands between the Waters of the St. John's and the Highlands, intended by

the Treaty of 1783, to the British Province. Confidently believing that the award, *as an adjudication*, is altogether void, I can see no Constitutional power in the Nation, to require an acquiescence in it, on the part of the States, which would be prejudiced by its adoption. This must be left to their own volition. Massachusetts, it is true, can suffer directly only in the loss of property; but her sympathies are not the less due to the State of Maine, in the greater stake of physical and political strength which is there at hazard. Were it not for the Act of Separation, *her* condition had been *our own*. The consent of the Parent State to the erection of Territory to which she claimed an absolute title, of which, from time immemorial, she had been in the actual and exclusive possession, and over which she exercised undisputed jurisdiction, into an Independent Government, was, at least, an implied warranty against its subsequent liability to foreign dismemberment.

As was anticipated, in a communication made by me to the last Legislature, it has resulted, that the further allowance of the Claims of the State upon the General Government is suspended upon the extraordinary construction given by the late Secretary of War, to the Act of Congress providing for its settlement, that his authority was limited to finding a sum of debt equal to the amount of the appropriation for payment, and that beyond this he could not proceed, however equally well the principles of allowance, and the proofs of service, might apply to the remainder of the accounts. Against this opinion, at the time, the Agent of the State ably reasoned, and earnestly protested. The arguments and the issue are before the public, in the Documents which have been published. To an application made by the

Agent to the present Secretary of War, to revise this decision, and to allow the examination of the Claims to be resumed, that Officer has replied, that "finding his immediate Predecessor proceeded as far in the adjustment of the Claims, as he conceived himself authorized under the Act of Congress passed for their settlement, and finally decided, that this Department could afford no further relief in the case, it could not become him to reopen a matter which has been thus disposed of; and that this can only be done by an Act of Congress." The business now rests in the special charge of the Agent, under instructions, upon consultation with the Delegation, to move such Order in Congress, on the subject, at the proper opportunity, as their united advice may recommend. I need not repeat, here, the reasons for believing that an appeal, thus made, cannot fail to be successful. The views which I entertain in relation to the character of the Claim, have been unequivocally and often expressed. To an entire conviction of the obligation of the nation to its payment, and a dissent to the applicability of objections, which for a long time were interposed to any provision, even for its examination, there is now added a perfect confidence, that the principles which have been adopted in the allowance of one portion of the accounts, will equally sustain the greater part of the residue; and that the Government, being apprised of this, will not permit that measure of Justice to be injuriously withheld, which it recognizes as due to the rights of the State.

The Resolutions of the Legislature of the Commonwealth, passed on the 8th of March last, requesting the Senators and Representatives of the State in the Congress of the United States, to use their exertions to pro-

cure the passage of a law for the more perfect organization of the Militia of the several States, were duly transmitted to them, and also to the Governors of the other States, to be laid before their respective Legislatures, for their consideration. This Communication was met in many of these States, by similar Resolves and instructions to their Representatives. The Complaints which are loud and universal against a system of unnecessary and burdensome exactions of personal service, have thus, at length, received a direction in which the remedy that is sought, can be made effectual and satisfactory. The power to provide for organizing, arming and disciplining the Militia, is expressly vested by the Constitution of the United States, in the General Government, the States having reserved to themselves the right of appointing the Officers and training the Militia, according to the discipline prescribed by Congress. Under this delegated authority exercised now almost forty years since, in the very infancy of the Republic, hardly then confirmed in the maintenance of National Independence, and just rescued from the dangers of anarchy under the old Confederation, with unsettled foreign relations, a sparse population, weak settlements, and a wide frontier constantly exposed to attacks from numerous and formidable Indian Tribes of hostile intentions or suspected fidelity, Congress passed the act, which has strangely been permitted, through all the changes and circumstances of the Country to its present condition of strength, security and prosperity, to direct the enrolments for duty in the Militia. It must be obvious indeed, that requirements adapted to that early period, are wholly unsuited to the occasions of the present time. With the increase of population, the Militia force has proportionately aug-

mented, while the dangers against which this force is provided have been diminished in a ratio with that of its growth. The security to Republican Government, from a *well regulated and efficient Militia*, will not be questioned. It has been authoritatively and somewhat enthusiastically pronounced, "a perpetual Guard against internal commotion, and an invincible power to shield the Country against its external enemies." The history of every year furnishes illustration of the protection to good Government which it affords. But the enrolment and training of so many of the Citizens have long been regarded as wholly unnecessary to any emergency, which they may be called to meet. The liability to service from 18 to 45 years of age, which the law of 1792 now in force, imposes, has given rise to numerous exemptions and evasions, scarcely less in the aggregate, than the Muster Rolls of the Train Bands themselves. Hence the dissatisfaction and murmurings against the system, as unequal, oppressive, and unjust. By reducing the period of liability to duty, and rendering that duty instructive in the military art, furnishing arms and equipments for its performance, and offering encouragement to those of whom it is required, and allowing no arbitrary and invidious exemptions from its burdens, the Institution will be restored to public favor, and the service of the Soldier be esteemed as honorable, as his preparation to render it, is indispensable to the common welfare. The attention, which has been drawn to the subject in Congress, already thus early in the Session, promises this effect, in a revision and amendment of the whole system of Militia organization and discipline. It cannot reasonably be doubted, that a measure which so directly affects the personal obligations of the Citizen, the domestic

regulations of the States, and the physical force of the Union, after the appeals which have been made in uniform expressions of public sentiment and the more formal resolves of Legislative Bodies, will now receive a definite and governing determination. Without an alteration of the law of Congress respecting enrolments, all subordinate State Legislation must be unavailing to remove the complaints which exist.

The condition of the fiscal concerns of the Commonwealth will be learnt from the annual statement of the Treasurer. It must be seen with equal disappointment and regret, that the Expenditures continue to exceed the Receipts from the ordinary sources of revenue. Discarding from the accounts, in the manner in which they are made up, the credit for the money obtained from the General Government on account of the Claim for Militia services, which was subsequently invested in Securities now held by the Commonwealth, and also disregarding the negotiations with the Banks, so far as the loans and payments are balanced by each other, it appears that the disbursements, within the year, have been $ 381,481 68
while the receipts have amounted only to 325,059 23
thus showing a deficit of income, in the sum of 56,422 45
Of this large aggregate of expenditure, *one hundred and one thousand, two hundred and seventy-one dollars* were required for the payment of the travel and attendance of the Members of the General Court. There will also be observed among the items of charge, an amount exceeding *thirty-nine thousand dollars*, for balances of County Treasurer's accounts against the Commonwealth. These occasions of heavy drafts upon the Treasury must in future be sensibly diminished by the alteration of the Constitution, which dispenses with a second Session of the

Legislature in the same year, and by the operation of the Statute for enlarging the Criminal Jurisdiction of the Court of Common Pleas, by which, if it is permitted to take effect, great expense for the support of Prisoners in the County Jails, previous to trial, will be prevented. How far still greater reductions may hereafter be allowed by other Amendments of the Constitution, or by further alterations in our system of Jurisprudence, depends upon the issue of measures yet to be adopted.

I beg to be understood as continuing of the opinion, which was fully explained in an address to a former Legislature, that the powers of the Court of Common Pleas might be usefully extended, even beyond the provisions of the late Statute. By a more equal division of the amount of business, both civil and criminal, between this Tribunal and the Supreme Judicial Court, much benefit would result to the Community from a more prompt and equally certain decision of cases, and no inconsiderable saving be made to the Treasury in the incidental expenses of the administration of Justice. The Docket of the latter Court is becoming oppressively overburdened, while that of the former, already comparatively small, is daily decreasing.

The excessive charges upon the Government point to the need of more strict economy. There is no subject, perhaps, upon which there is greater misapprehension, than in relation to the causes of this large expense. The work of retrenchment and reform must begin with Systems. The character of economy should be written upon the Laws themselves. It is not in the cost of the Civil List and the necessary support of Government, that the accounts of the Treasury are thus swollen. While whatever is unnecessary in these, should be lopped off, and

whatever is improper should be corrected, yet it has often heretofore been satisfactorily found, that there was comparatively little, here, to be effected. The Salaries of all the officers, with the incidental charges for the support of Government are, in the exhibit of the last year, *less than one fifth part* the aggregate of the payments from the Treasury. Next to the cost of legislation itself, it is by direct grants, and special appropriations, and unforeseen and unprovided for contingencies, that the Revenue is mainly absorbed. By all these it is, that the reproach of profusion and extravagance in the *administration* of the State, has come to be unjustly uttered. Has it been considered, that whatever is a charge upon the Treasury is made so, under the sanction of the Laws? And is it of no avail, to what purposes these expenditures have been directed? A recurrence to the Treasury accounts for the last six years would show, that important Commissions have been executed, in settling heavy claims upon the Government, in ascertaining and fixing the Boundaries of the Commonwealth upon the lines of Connecticut and New Hampshire, in dividing with Maine the Public Lands, and bringing these Lands into the Market by constructing Roads, and in managing and disposing of them, at the charge of an agency;—that high objects of general improvement and of public good have been accomplished, by expensive and necessary repairs, alterations and additions to this very Capitol; by the construction of a costly Penitentiary; by extensive surveys for facilitating the means of intercommunication, and thereby developing the resources, and promoting the growth and prosperity of the Country, and by other surveys for scientific ends, in discovering the Geology, and

defining more accurately the Geography of the State; by the noble charity of an Institution for the succor of the miserable Lunatic, heretofore the destined and neglected Tenant of the Dungeon; by the annual bestowment of a bounty, no less interesting, for the support and Education of the destitute Deaf and Dumb; by the liberal encouragement afforded to Agricultural Societies; and finally, by fulfilling the injunctions of the Constitution upon "Legislatures and Magistrates, in all periods of the Commonwealth, to promote by rewards and immunities, Agriculture, Arts, Sciences, Trades, Manufactures, and a Natural History of the Country." Such appropriations have little to do with the mere support of Government, with which, in an undistinguished mass, they have, sometimes, disingenuously been identified. They are, with better propriety, regarded as the fitting contributions of a prosperous age to the cause and progress of human improvement. If they have served to swell the burdens of the present day, it cannot be to a tithe of the obligation for the Institutions and privileges which were transmitted to us by our Fathers, or of the added value which they will give to the inheritance, which is the right, and will be the enjoyment of our Children.

I have thus attempted faithfully to present the objects of prominent concern in the administration of the affairs of the Commonwealth. If, among numerous subjects to which I have felt constrained to advert, there are those which may generally be regarded with little interest, the notice of them, in this place, will be pardoned, in the consideration, that there is no Department, through which, measures, within the scope of Executive action, and proper for the information of the Legislature, can

otherwise be communicated. However uninviting such topics appear, they nevertheless become important from their relation to the necessary business of the Government, and the incumbent duties of its responsible and accountable Officers.

It remains only to the duty of this occasion, that I lay before you Resolutions of the Legislatures of the States of Maine, New Hampshire, and Connecticut, respectively, which have been transmitted to me, with requests to that purpose, during the vacation. The Resolutions of Maine relate to the Tariff and Internal Improvements, and express a denial of the Constitutional power of Congress to execute a system of Internal Improvements, and a disapprobation of raising a revenue by taxes and imposts beyond the ordinary and necessary expenses of the Government. Those of New Hampshire contain instructions to the Delegates in Congress from that State, to use their exertions to procure the passage of a law for the more perfect organization of the Militia of the several States. And those of Connecticut are in affirmance of the Supremacy of the Constitution of the United States, and the Laws and Treaties made in pursuance thereof, over State authority, and maintain the Independence of the Judicial Department of the General Government, and the importance of preserving its influence, to the permanent interests of the Country.

In such communications, aside from the subjects to which they refer, there is an apt and striking illustration of the peculiar character of the Government under which we live. They are in themselves a practical recognition of the federative principle by which the States are united. They imply the mutual connexion of these States

with each other, and their common relation to one constituted head. There is in them, neither the manifestation of the existence of a separate power, nor the dictate of a joint command, to control the operations of the confederated Government. In their original adoption, they severally purport to be the opinions of a single State, proposed to the consideration of other States, to induce to their co-operation, and the united influence of all, upon the concentrated Councils of the Nation. Thus regarded, they are indeed a beautiful exhibition of that harmony of design in which the Union was established. How much more consonant with the genius of our political Institutions, are these expressions of sentiment, addressed to the reason, and wisdom, and patriotism of the people, than the loud notes of denunciation and defiance which have elsewhere been sounded, to overawe and control the Constitutional functions of an independent Department of the Government! The recent measures which have been proposed in some of our sister States, can be viewed only with alarm for the very existence of the Republic. Whatever may be the purity of motive, or the integrity of principle, in which they are conceived, their inevitable tendency is to division and separation. The extraordinary doctrine, that it is within the reserved rights of the States to decide, *each for itself*, the obligation of submission to the Laws of the Union, goes directly to the subversion of that Union. If obedience is put at the pleasure of those from whom it is required, local interests and political excitements will not fail to find occasions on which it will be refused. The laws which are intended for the government of the whole people, will be made to bear with unequal operation up-

on a part. The Citizens of one Section of the Country, absolved from their allegiance by State authority, will be arrayed against those of another Section, who are still held to its responsibilities. In the controversy which will ensue, either an enforcement of the power of the General Government must become usurpation and tyranny, or resistance to it will be rebellion and treason. It were well that this matter was more thoroughly and generally considered. It should be brought home to the understanding and personal judgment of every Citizen. If, under the Constitution, there is no common umpire between the Government and the People, between the reserved rights of the States, and the delegated authority of the Nation, then has the Union no strength, Liberty no safeguard, National Independence no security or permanency. The majority of each State Legislature holds at its will the continuance of the compact of Confederation, and policy alone will determine both the measure and duration of its obligations. Happily, the Framers of the Constitution foresaw, and wisely provided against this danger. They placed the Edifice of political Freedom upon a more stable foundation than an ever fluctuating popular opinion. On the broad principles of mutual interest, and common protection, they reared the Structure of the Federal Union. They established fundamental rules for the administration of the Government, and created an Independent Tribunal, in the Judicial Department, to watch over and enforce their observance. While the Constitution remains unimpaired, and the Institutions which it has appointed are maintained in their purity and vigor, this Nation will continue to advance in strength and glory ;—the States will be protected in the relations

which a just and voluntary compromise established ;—and the People, free, prosperous and happy, will enjoy that pre-eminence in rights, privileges and condition, which has made their Country a land of Liberty ;—a refuge and resting place for the persecuted and oppressed of the whole earth.

LEVI LINCOLN.

Council Chamber,
Boston, January 9th, 1832.

71. 2009. 084 09407